

Unless a person is a supervised financial organization or has first obtained a license from the department, the person shall not engage in this state in the business of making consumer loans or taking assignments of and undertaking direct collection of payments from or enforcement of rights against debtors arising from consumer loans, but the assignee may collect and enforce for 3 months without a license if the person promptly applies for a license and the person's application has not been denied.

Consumer loans are all types of loans including second mortgage loans; however, an Indiana loan license is not required to make only first lien mortgage loans. Small loans (payday loans) made under IUCCC Chapter 7 require a Small Loan License.

A license shall not be issued unless the department finds that the financial responsibility, character and fitness of the applicant, members or officers and directors of the applicant are such as to warrant belief that the business will be operated honestly and fairly within the purposes of the Indiana Uniform Consumer Credit Code.

The application for a loan license must be accompanied by the following:

1. A CPA prepared audited or reviewed financial statement showing at least \$100,000 net worth with \$50,000 in liquid assets.
2. A person engaged in making small loans under this chapter shall post a bond to the department in the amount of fifty thousand dollars (\$50,000) for each location where small loans will be made, up to a maximum bond amount of five hundred thousand dollars (\$500,000). A bond posted under subsection (1) must continue in effect for five (5) years after the lender ceases operation in Indiana. The bond must be available to pay damages and penalties to a consumer harmed by a violation of this chapter.
3. An application fee of \$600.
4. Applicant must show minimum two (2) years finance related experience for anyone who will be managing an Indiana location.
5. If a corporation, a copy of Certificate of Authority to do business in Indiana from the Secretary of State.
6. If d/b/a, copy of assumed name certificate from County Recorder.
7. State Police Report of State of residence for each principal (officers/partners/owner/Indiana manager).
8. Credit Report for business and/or principals (unless you have audited financials).
9. Three reference letters, one must be a financial institution.
10. Copy of business plan.
11. Business resume for the manager, owner, partners, and all officers, as applicable.
12. List of other states where operating as a lender and/or broker.
13. Copy of your Indiana Loan Broker Registration if operating as a loan or mortgage third party broker in Indiana.
14. Example of loan application.
15. Sample of a completed Note and Disclosures applicable to type of loans to be made.
16. Security agreement (if applicable).
17. Retail Installment Contract (if applicable).
18. RESPA Statement (Complete mortgage package if making second mortgages).

Attach a detailed explanation of the following:

- ◆ How loans will be made.
- ◆ Written description of the funding of the loan to the consumer.
- ◆ Security
- ◆ Estimated Average Loan.
- ◆ Are you going to make only first lien mortgage loans? If Yes, you do not need an Indiana loan license.
- ◆ Will you have a location in Indiana or will you use Indiana title companies or attorneys to close the loans?
- ◆ Will you retain servicing on the loans? If No, who will be servicing?
- ◆ Software the applicant proposes to use for disclosure and/or record keeping.

Loan license applications can be obtained on the Internet or by contacting the Consumer Credit Division of the Department of Financial Institutions (DFI). There is an application fee of \$600 with an annual volume fee or renewal fee of \$600 whichever is greater due on January 31. The volume fee is based on the original unpaid balances of consumer credit transactions during the calendar year. The first \$100,000 is exempt from the fee. The fee is subject to change and is currently \$16.00 per \$100,000 or part thereof.

The Indiana Uniform Consumer Credit Code (IC 24-4.5) contains regulations concerning licensed lenders and loans.

DEFINITIONS:

"Consumer Loan" - Except with respect to a loan primarily secured by an interest in land which is a first lien transaction, "consumer loan" is a loan made by a person regularly engaged in the business of making loans in which:

- ◆ the debtor is a person other than an organization;
- ◆ the debt is primarily for a personal, family, or house-hold purpose;
- ◆ either the debt is payable in installments or a loan finance charge is made; and
- ◆ either the principal does not exceed fifty thousand dollars (\$50,000) or the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor (second or junior mortgage loans).

"Loan" - A "loan" includes:

- ◆ the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;
- ◆ the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately;
- ◆ the creation of debt pursuant to a lender credit card or similar arrangement; and the forbearance of debt arising from a loan.

"Regularly engaged" means a person who extends consumer credit more than 25 times or 5 times for transactions secured by a dwelling in the preceding calendar year or in the current calendar year.

"Lender"; "Precomputed"; "Principal" - Except as otherwise provided, **"lender"** includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

A loan, refinancing, or consolidation is **"precomputed"** if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

"Principal" of a loan means the total of the net amount paid to, receivable by, or paid or payable for the account of the debtor; the amount of any discount excluded from the loan finance charge; and to the extent that payment is deferred, amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees, and additional charges permitted by the IUCCC Section 3-202).

"Revolving Loan Account" means an arrangement between a lender and a debtor pursuant to which:

- ◆ the lender may permit the debtor to obtain loans from time to time;
- ◆ the unpaid balances of principal and the loan finance and other appropriate charges are debited to an account;
- ◆ a loan finance charge if made is not precomputed but is computed on the outstanding unpaid balances of the debtor's account from time to time, and
- ◆ the debtor has the privilege of paying the balances in installments.

"Loan finance charge" means the sum of all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges which are applicable:

- ◆ interest or any amount payable under a point, discount, or other system of charges, however denominated; premium or other charge for any guarantee or insurance protecting the lender against the debtor's default or other credit loss; and
- ◆ charges incurred for investigating the collateral or credit-worthiness of the debtor.

The term does not include charges as a result of default, additional charges, delinquency charges, or deferral charges.

MAXIMUM CHARGES - The maximum rate (effective 7/1/02) is a melded rate based on a step rate of 36% on the portion of the amount financed up to \$960; 21% on the portion of the amount financed from \$960.01 to \$3,200; and 15% on the portion of the amount financed over \$3,200; or 21%, whichever is greater.

There is also a minimum finance charge allowed of \$33.00.

Loans which have a rate of 21% or less may contract for impose a loan origination fee of not more than 2% of the loan amount or line of credit on loans secured by an interest in land and not more than 2% up to \$40.00 on other consumer loans. This charge is not subject to refund or rebate; and is not permitted if a lender makes a settlement charge under IC 24-4.5-3-202(d)(ii) and is subject to other restriction on loans not secured by an interest in land. Other prepaid finance charges could be subject to refund if the loan is prepaid and the simple interest plus the prepaid finance charges exceed the maximum rate for the term of the loan.

ADDITIONAL CHARGES - Additional charges may be included in the amount financed such as:

- ◆ Official fees and taxes.
- ◆ Charge not to exceed \$20 for each returned NSF check.
- ◆ Revolving loan annual or periodic participation fees.
- ◆ Property or liability insurance if the cost is disclosed and the buyer may choose from whom the insurance is to be obtained.
- ◆ Credit insurance if it is not a factor in the approval of the credit and the buyer gives affirmative, written indication of desire for the insurance. If a creditor requires credit insurance, it must be included in the finance charge and reflected in the APR.
- ◆ Closing costs on a debt secured by an interest in land.
- ◆ A fee not to exceed twenty dollars (\$20) in each billing cycle during which the balance due under a revolving loan account exceeds by more than one hundred dollars (\$100) the maximum credit limit for the account established by the lender.
- ◆ A transaction fee on revolving loans that may not exceed the lesser of two percent (2%) of the amount of the transaction or ten dollars (\$10).

DELINQUENCY CHARGES - A lender may contract for and receive a delinquency charge (effective 7/1/98) of not more than \$16.00 when a payment is made more than 10 day past the due date. Payments are applied to current installments then to delinquent installments.

REBATE UPON PREPAYMENT - Unearned finance charges based on the "Rule of 78s" rebate are to be given upon prepayment in full of a precomputed consumer loan. Loans over 61 months are to have finance charges rebated on an actuarial basis. The actuarial method is computed by applying the disclosed annual percentage rate to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

DEFERRAL CHARGES - A lender may contract for and receive a deferral charge on precomputed contracts at the disclosed APR. Unearned deferral charges must be rebated upon prepayment in full.

BALLOON PAYMENTS - A loan with a final payment twice as large as the earlier scheduled payments have the right to refinance the final payment for no less favorable terms than the original loan.

ATTORNEY'S FEES - A lender may contract for and receive reasonable attorney's fees.

LIMITATIONS ON DEFAULT CHARGES - Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer loan may not provide for any charges as a result of default by the debtor other than those authorized by the Indiana Uniform Consumer Credit Code.

USE OF MULTIPLE AGREEMENTS - A lender may not use multiple agreements with the intent to obtain a higher finance charge than would otherwise be permitted by the Indiana Uniform Consumer Credit Code or to avoid disclosure of an annual percentage rate.

EXAMINATIONS - The DFI, in order to determine whether the provisions of the Indiana Uniform Consumer Credit Code are being complied with by persons engaging in acts subject to that Article, may examine the books and records of persons and may make investigations of persons as may be necessary to determine compliance. The DFI shall determine the sufficiency of the records and whether the person has made the required information reasonably available.

The records pertaining to any consumer credit transaction subject to the Indiana Uniform Consumer Credit Code shall be retained for two (2) years after making the final entry relating to the consumer credit transactions.

The DFI shall be given free access to the records wherever located. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or its representative to examine them where they are maintained.

The DFI may assess an examination fee established by the department for each day or partial day by which the examination exceeds three (3) days per location to be examined. However, the examination fee provided for in the Code is payable only to the extent that the fee exceeds the amount of the filing fees paid most recently.

If you have any questions regarding consumer lending, contact the Consumer Credit Division of the Department of Financial Institutions.



LICENSED LENDERS



DEPARTMENT OF FINANCIAL INSTITUTIONS

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317-232-3955
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